IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1589 of 1998

Between:

Bommidala Brothers Limited, Mangalagiri Road, Guntur, rep by its Director, B.Narayana Murthy.

..... PETITIONER

AND

1 Kanderi Padmanabha Naidu, S/o Rangappa Naidu,
2 Smt. K.Guna Bhushanamma, W/o Padmanabha Naidu,
D.No.4-221, Sham Nivas, Mangalagiri, Guntur Dist.
3 Labour Court, Guntur, rep by its Presiding Officer.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, particularly one in the nature of writ of certiorari calling for the records pertaining to Award dt.7-5-1997 in I.D.No.214/90 and I.D.No.215/90 and M.P.No.66/90 on the file of the 3rd respondent and published in G.O.Rt.No.2266, dt.29-797 and quashing the same as illegal and arbitrary

Counsel for the Petitioner: MR.C.M.Ramesh Rao,

Counsel for the Respondent No.1 and 2 : MR.G.VIDYASAGAR

Counsel for the Respondent No.3: G.P.for Labour (None appeared)

The Court made the following :

ORDER:

This writ petition is filed by the Bommidala Brothers Limited,Mangalagiri Road, Guntur, represented by its Director B.Narayana Murthy, being aggrieved by the common Award passed in I.D.No.214 of 1990, ID.No.215 of 1990 and M.P.No.66 of 1990 dated 7-5-1997 on the file of the Labour Court at Guntur.

It is the case of the petitioner that the claim petitioners in I.D.No.214 of 1990 and I.D.No.215 of 1990 never worked in their factory and in fact, no factory was established at Yerrabalem village. The claim of the workmen was fictitious and they are also not entitled to any relief as sought for, much less the claim under Section 33-C(2) of Industrial Disputes Act (in short 'the Act') . Before the Labour Court in support of their claim, the workmen examined W.Ws 1 to 4 and marked documents Exs.W.1 to W.10. However, on behalf of the petitioner-management, MW.1 was examined, but no documents were marked. After an elaborate consideration of the entire oral and documentary evidence, the Labour Court came to the conclusion that there was an employer and employee relationship and the workmen worked with the petitioner industry and they are also entitled for arrears of wages under Section 33-C(2) of the Act.

Aggrieved by the same, the present writ petition is filed.

The learned counsel for the petitioner strenuously contended that the petitioner is not having any factory or established any canteen at Yerrabalem and as such the contention of the claimants that they were employed in the canteen of the petitioner at Yerrabalem is all false. Therefore, the question of employing the respondents as alleged does not arise. Thus, the question of terminating their services also equally does not arise. The petition is filed only to harass the management. The claim under Section 33-C(2) of the Act is also fictitious. The labour Court ought to have dismissed the claim petitions as well as the petition under Section 33-C(2) of the Act. The labour Court has not properly considered the evidence on record. There was no employer and employee relationship. The finding of the Labour Court is perverse and as such deserves to be set-aside.

I have given earnest consideration to the respective submissions made by the learned counsel on either side and gone through the Award passed by the labour court and other material made available on record. I am of the considered opinion that the labour Court after meticulously discussing each and every aspect of the evidence, rightly came to the conclusion that there was a relationship of employer and employee and the petitioner-management is liable to reinstate the workmen into service and they are also entitled for the arrears of wages as claimed under Section 33 (C2) petition.

The contention of the learned counsel for the petitioner that there was no employer and employee relationship and the evidence was not properly considered is absolutely false. In fact, except examining MW.1, who is not much concerned with the industry and whose evidence cannot be given much credence in the claim petition, there is no other oral or documentary evidence placed before the lower Court.

On the other hand, the finding of the labour court that there is an ample documentary, convincing and clinching oral evidence of W.Ws.1 to W.Ws.4 to prove the fact that both the workmen are employed by the petitioner in their canteen at Yerrabalem. Though the petitioner denied in its counter that they have no branch at Yerrabalem, the documentary evidence produced by the workmen and marked in this case besides the documentary evidence produced by the Factory Inspector examined as MW.1 clinchingly establishes the fact beyond doubt that there is a branch of the petitioner company at Yerrabalem in which there was a canteen

maintained by them and the respondents-workmen were employed there. Except raising the question that there was no employer and employee relationship, there are no other arguments advanced or legal points raised. In view of the above finding, I am of the considered opinion that the labour Court has not committed any error in coming to the conclusion that the workmen engaged in the petitioner factory and there was relationship of employer and employee. Once this is so, the termination as found by the labour court was illegal and the workmen are entitled for relief as awarded by the labour court apart from the difference of wages awarded under Section 33-C(2) petition to the workmen.

The labour Court has not committed any error and the impugned order does not require any interference by this Court under Article 226 of the Constitution of India.

The writ petition is devoid of merit and the same is dismissed. No order as to costs.

C.V.RAMULU,J 13-06-2005

Stp

To

1. Labour Court, Guntur, rep by its Presiding Officer.

2) 2 CD copies

3) 2 CCs to G.P. for Labour, High Court Buildings,Hyderabad.

*Form-NIC-OGS/WP{**LOBIS**}*